

## JOURNAL OF THE HOUSE

## Fifty-ninth Legislative Assembly

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Bismarck, January 28, 2005

The House convened at 12:00 p.m., with Speaker Klein presiding.

The prayer was offered by Pastor Scott Bauman, Charity Lutheran Church of Bismarck.

The roll was called and all members were present except Representatives Belter, Dosch, Ekstrom, Nicholas, Solberg, Svedjan, and Timm.

A quorum was declared by the Speaker.

## SIXTH ORDER OF BUSINESS

**REP. MONSON MOVED** that the amendments on the Sixth order of business to HB 1025, HB 1120, HB 1206, HB 1235, HB 1281, HB 1314, HB 1324, HB 1387, HB 1413 and HB 1418 be adopted, which motion prevailed.

HB 1235, as amended, was rereferred to the **Appropriations Committee**.

HB 1025, HB 1120, HB 1206, HB 1281, HB 1314, HB 1324, HB 1387, HB 1413 and HB 1418, as amended, were placed on the Eleventh order of business on the calendar.

## MOTION

**REP. MONSON MOVED** that HB 1110, which is on the Eleventh order, be rereferred to the **Human Services Committee**, which motion prevailed. Pursuant to Rep. Monson's motion, HB 1110 was rereferred.

## SECOND READING OF HOUSE BILL

**HB 1283:** A BILL for an Act to amend and reenact subsection 5 of section 49-22-03 of the North Dakota Century Code, relating to siting of energy conversion facilities; and to declare an emergency.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 85 YEAS, 2 NAYS, 0 EXCUSED, 7 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Amerman; Bellew; Berg; Bernstein; Boe; Boehning; Boucher; Brandenburg; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dietrich; Drovda; Froelich; Froseth; Galvin; Glassheim; Grande; Guleson; Haas; Hanson; Hawken; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Thoreson; Thorpe; Uglem; Vigasaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

**NAYS:** Brusegaard; Keiser

**ABSENT AND NOT VOTING:** Belter; Dosch; Ekstrom; Nicholas; Solberg; Svedjan; Timm

Engrossed HB 1283 passed, the title was agreed to, and the emergency clause was declared carried.

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## SECOND READING OF HOUSE BILL

**HB 1349:** A BILL for an Act to restrict the marketing of credit cards to students.

## ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 27 YEAS, 60 NAYS, 0 EXCUSED, 7 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Amerman; Boe; Boehning; Boucher; DeKrey; Delmore; Glassheim; Gulleeson; Hanson; Hunsakor; Kelsh, S.; Kerzman; Kroeber; Maragos; Meier, L.; Metcalf; Meyer, S.; Mueller; Onstad; Owens; Price; Ruby; Sandvig; Schmidt; Thorpe; Wrangham

**NAYS:** Bellew; Berg; Bernstein; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; Delzer; Devlin; Dietrich; Drovda; Froelich; Froseth; Galvin; Grande; Haas; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kempenich; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Martinson; Monson; Nelson; Norland; Nottestad; Pietsch; Pollert; Porter; Potter; Rennerfeldt; Sitte; Skarphol; Thoreson; Uglem; Vigasaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Zaiser; Speaker Klein

**ABSENT AND NOT VOTING:** Belter; Dosch; Ekstrom; Nicholas; Solberg; Svedjan; Timm

HB 1349 lost.

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#### MOTION

**REP. BERG MOVED** that HB 1259, which is on the Eleventh order, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Rep. Berg's motion, HB 1259 was rereferred.

#### SECOND READING OF HOUSE BILL

**HB 1027:** A BILL for an Act to amend and reenact section 52-04-05 of the North Dakota Century Code, relating to the determination of unemployment insurance tax rates.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 75 YEAS, 9 NAYS, 0 EXCUSED, 10 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Amerman; Bellew; Bernstein; Boe; Boucher; Brusegaard; Carlisle; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Devlin; Dietrich; Drovda; Froelich; Froseth; Glassheim; Gulleeson; Haas; Hanson; Hawken; Headland; Herbel; Horter; Hunsakor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Thoreson; Uglem; Vigasaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

**NAYS:** Boehning; Brandenburg; Carlson; Galvin; Grande; Martinson; Sitte; Skarphol; Thorpe

**ABSENT AND NOT VOTING:** Belter; Berg; Delzer; Dosch; Ekstrom; Kelsch, R.; Nicholas; Solberg; Svedjan; Timm

Engrossed HB 1027 passed and the title was agreed to.

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#### MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

**MR. SPEAKER:** The Senate has passed and your favorable consideration is requested on: SB 2044, SB 2061, SB 2226, SB 2308.

#### MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2036.

#### MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

**MR. PRESIDENT:** The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1046.

#### MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

**MR. PRESIDENT:** The House has passed and your favorable consideration is requested on: HB 1041, HB 1089, HB 1102, HB 1107, HB 1186, HB 1195, HB 1200, HB 1202, HB 1232, HB 1241, HB 1263, HB 1284, HB 1286, HB 1290, HB 1305, HB 1346, HB 1436.

**MOTION**

**REP. MONSON MOVED** that the absent members be excused, which motion prevailed.

**MOTION**

**REP. MONSON MOVED** that the House be on the Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the House stand adjourned until 1:00 p.m., Monday, January 31, 2005, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1176: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1176 was placed on the Sixth order on the calendar.

Page 1, line 5, replace the second "subsection" with "subsections" and after the second "1" insert "and 2"

Page 3, line 24, replace "and" with "an"

Page 3, line 25, replace "Adviser" with "Advisers" and replace "and" with "an"

Page 45, line 13, replace "thousand" with "million"

Page 49, line 18, replace "subparagraph i" with "paragraph 1"

Page 67, after line 5, insert:

**"SECTION 21. AMENDMENT.** Subsection 2 of section 10-04-18 of the North Dakota Century Code is amended and reenacted as follows:

2. As used in this section, the term "willfully", except as it applies to subdivisions a and b of subsection 1 of section 10-04-10.1 and ~~subsections subdivisions a and c of subsection 2 and 4~~ of section 10-04-15, means that the person acted intentionally in the sense that the person was aware of what the person was doing. Proof of evil motive or intent to violate the law or knowledge that the law was being violated is not required."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1245: Transportation Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1245 was placed on the Sixth order on the calendar.

Page 1, line 1, after "39-12-03" insert "and subsection 2 of section 39-12-05.3"

Page 2, after line 5, insert:

**"SECTION 3. AMENDMENT.** Subsection 2 of section 39-12-05.3 of the North Dakota Century Code is amended and reenacted as follows:

2. Subject to the limitations imposed by subsection 1 on tires, wheel, and axle loads, a person may not operate on a highway that is not part of the interstate system any vehicle the gross weight of which exceeds that determined by the formula of:

$$W = 500 \left( \frac{LN}{N-1} + 12N + 36 \right)$$

where W equals the maximum gross weight in pounds on any vehicle or combination of vehicles; L equals distance in feet between the two extreme axles of any vehicle or combination of vehicles; and N equals the number of axles of any vehicle or combination of vehicles under consideration. The gross weight on state highways may not exceed one hundred five thousand five hundred pounds [47854.00 kilograms] unless otherwise posted and on all other highways the gross weight may not exceed ~~eighty thousand pounds [36287.39 kilograms]~~ unless designated by local authorities for highways under their jurisdiction for gross weights not to exceed one hundred five thousand five hundred pounds [47854.00 kilograms]. Local authorities are encouraged to assess all roads under their jurisdiction and

designate the roads for the appropriate weight limits allowed under this subsection."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1258: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1258 was placed on the Sixth order on the calendar.

Page 4, line 6, replace "committed" with "permitted"

Page 4, line 16, after the underscored period insert "If a licensee fails to pay the fee for the renewal of the certificate of registration on or before the due date of the payment, after thirty days' written notice of the default, the board may cancel the license without a hearing. The board shall record the cancellation and notify the dental assistant of the cancellation."

Page 9, replace lines 26 through 30 with:

"9. For any person, except a North Dakota licensed practicing dentist, to own more than forty-nine percent of an office practice or business ~~where dental operations, dental oral surgery, or dental services are at~~ which the practice of dentistry is performed. This provision does not apply to ~~medical clinics and public health settings where dentists are a~~ health care clinic, hospital, health system, or public health setting with which a dentist is associated and, a board-approved nonprofit organization created to serve the dental needs of an underserved population, or the heir or personal representative of a deceased dentist who. The heir or personal representative may operate an office under the name of the deceased dentist for a period of not longer than two years from the date of the dentist's death."

Page 10, remove lines 1 and 2

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1309: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1309 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1327: Transportation Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1327 was placed on the Sixth order on the calendar.

Page 1, line 2, after "vehicles" insert "; and to declare an emergency"

Page 1, line 6, replace "weed control" with "pest control or survey work"

Page 1, after line 8, insert:

"**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1350: Human Services Committee (Rep. Price, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1350 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections" with "section" and remove "and 47-16-13.1"

Page 1, line 2, replace "the hearing-impaired" with "deaf persons"

Page 1, line 20, after "if" insert "requested by" and after "tenant" insert "who"

Page 1, replace line 21 with "deaf"

Page 1, line 22, remove "systems"

Page 2, remove lines 6 through 31

Page 3, remove lines 1 through 20

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1353: Agriculture Committee (Rep. Nicholas, Chairman)** recommends **DO NOT PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1353 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1355: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1355 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1357: Transportation Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1357 was placed on the Sixth order on the calendar.

Page 1, line 23, remove "raw agricultural" and replace "fifty" with "one hundred"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1375: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1375 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "three" with "two"

Page 1, line 15, after the first "than" insert "one thousand", replace the comma with "and", and after the second "than" insert "one thousand"

Page 1, line 16, replace the first "one" with "three" and remove ", and one city with a population of more than"

Page 1, line 17, remove "one thousand five hundred and not more than three thousand"

Page 2, line 11, after the period insert "The department may charge a fee for the services provided to the community. This fee may not exceed twenty-five percent of the value of the services offered."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1407: Political Subdivisions Committee (Rep. Devlin, Chairman)** recommends **DO NOT PASS** (8 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). HB 1407 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1412: Transportation Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1412 was placed on the Sixth order on the calendar.

Page 1, line 1, after "subsection" insert "1 of section 39-29-01 and subsection"

Page 1, line 2, after "vehicles" insert "; and to declare an emergency"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Subsection 1 of section 39-29-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "All-terrain vehicle" means any motorized off-highway vehicle fifty inches [1270.00 millimeters] or less in width, having a dry weight of one thousand pounds [453.59 kilograms] or less, traveling on three or more low-pressure tires, ~~designed for operator use only with no passengers,~~ having a seat or saddle designed to be straddled by the operator, and handlebars for steering control."

Page 1, after line 9, insert:

**"SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1429: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1429 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1431: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1431 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1432: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1432 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3008: Agriculture Committee (Rep. Nicholas, Chairman)** recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HCR 3008 was placed on the Tenth order on the calendar.

The House stood adjourned pursuant to Representative Monson's motion.

**Bradley C. Fay, Chief Clerk**